

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)

John Spencer Rose, M.D.)

File No. 02-2010-210612

Physician's and Surgeon's)

Certificate No. G 95817)

Respondent.)

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 5, 2011.

IT IS SO ORDERED July 8, 2011.

MEDICAL BOARD OF CALIFORNIA

By: Shelton Duruisseau
Shelton Duruisseau, Ph.D., Chair
Panel A

1 KAMALA D. HARRIS
Attorney General of California
2 GAIL M. HEPPELL
Supervising Deputy Attorney General
3 JEAN-PIERRE FRANCILLETTE
Deputy Attorney General
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7

8 *Attorneys for Complainant*

9 **BEFORE THE**
10 **MEDICAL BOARD OF CALIFORNIA**
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **JOHN SPENCER ROSE, M.D.,**
UC Davis Medical Center
2315 Stockton Boulevard PSSB 2100
Sacramento, CA 95817

14 Physician's and Surgeon's Certificate
15 No. G75451

16 Respondent.

Case No. 02-2010-210612

OAH No. 2010110452

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
18 above-entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Linda K. Whitney (Complainant) is the Executive Director of the Medical Board of
21 California. She brought this action solely in her official capacity and is represented in this matter
22 by Kamala D. Harris, Attorney General of the State of California, by Jean-Pierre Francillette,
23 Deputy Attorney General.

24 2. Respondent John Spencer Rose, M.D. is represented in this proceeding by attorney
25 Julie Clark Martin, Esq., whose address is LaFollette Johnson DeHaas Fesler & Ames, 655
26 University Avenue, Suite 119, Sacramento, CA 95825-6746.

27 3. On or about October 27, 1992, the Medical Board of California (Board) issued
28 Physician's and Surgeon's Certificate No. G75451 to John Spencer Rose, M.D. (Respondent).

1 Said certificate is renewed and current, with an expiration date of May 31, 2012. The Certificate
2 was in full force and effect at all times relevant to the charges brought in Accusation No. 02-
3 2010-210612. On or about November 12, 2010, an interim suspension order was issued pursuant
4 to Government Code section 11529 suspending Respondent's license.

5 JURISDICTION

6 4. Accusation No. 02-2010-210612 was filed before the Medical Board of California,
7 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
8 and all other statutorily required documents were properly served on Respondent on February 23,
9 2011. Respondent timely filed a Notice of Defense contesting the Accusation. A copy of
10 Accusation No. 02-2010-210612 is attached as Exhibit A and incorporated herein by reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, fully discussed with counsel, and understands the
13 charges and allegations in Accusation No. 02-2010-210612. Respondent has also carefully read,
14 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
15 Disciplinary Order.

16 6. Respondent is fully aware of his legal rights in this matter, including the right to a
17 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
18 his own expense; the right to confront and cross-examine the witnesses against him; the right to
19 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
20 the attendance of witnesses and the production of documents; the right to reconsideration and
21 court review of an adverse decision; and all other rights accorded by the California
22 Administrative Procedure Act and other applicable laws.

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
24 every right set forth above.

25 CULPABILITY

26 8. Respondent admits the truth of each and every charge and allegation in Accusation
27 No. 02-2010-210612.

28 ///

1 9. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
2 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the
3 Disciplinary Order below.

4 **RESERVATION**

5 10. The admissions made by Respondent herein are only for the purposes of this
6 proceeding, or any other proceedings in which the Medical Board of California, or other
7 professional licensing agency is involved, and shall not be admissible in any other criminal or
8 civil proceeding.

9 **CONTINGENCY**

10 11. This stipulation shall be subject to approval by the Medical Board of California.
11 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
12 Board of California may communicate directly with the Board regarding this stipulation and
13 settlement, without notice to or participation by Respondent or his counsel. By signing the
14 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
15 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
16 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
17 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
18 action between the parties, and the Board shall not be disqualified from further action by having
19 considered this matter.

20 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
21 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
22 effect as the originals.

23 13. In consideration of the foregoing admissions and stipulations, the parties agree that
24 the Board may, without further notice or formal proceeding, issue and enter the following
25 Disciplinary Order:

26 ///

27 ///

28 ///

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G75451 issued to Respondent John Spencer Rose, M.D., is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years, on the following terms and conditions:

1. **ACTUAL SUSPENSION** As part of probation, Respondent is suspended from the practice of medicine for thirty (30) days beginning the sixteenth (16th) day after the effective date of this Decision.

2. **CONTROLLED SUBSTANCES – ABSTAIN FROM USE** Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, dangerous drugs as defined by Business and Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide illness or condition.

Within 15 calendar days of receiving any lawful prescription medications, Respondent shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone number; medication name and strength; and issuing pharmacy name, address, and telephone number.

3. **ALCOHOL – ABSTAIN FROM USE** Respondent shall abstain completely from the use of products or beverages containing alcohol.

4. **BIOLOGICAL FLUID TESTING** Respondent shall immediately submit to biological fluid testing, at Respondent's expense, upon request of the Board or its designee. Prior to practicing medicine, Respondent shall, at Respondent's expense, contract with a laboratory or service – approved in advance by the Board or its designee – that will conduct random, unannounced, observed, urine testing a minimum of four times each month. The contract shall require results of the urine tests to be transmitted by the laboratory or service directly to Board or its designee within four hours of the results becoming available. Failure to maintain this laboratory or service during the period of probation is a violation of probation. A certified copy

1 of any laboratory test result may be received in evidence in any proceedings between the Board
2 and Respondent. Failure to submit to or comply with the time frame for submitting to, or failure
3 to complete the required biological fluid testing, is a failure of probation.

4 5. **ETHICS COURSE** Within 60 calendar days of the effective date of this Decision,
5 Respondent shall enroll in a course in ethics, at Respondent's expense, approved in advance by
6 the Board or its designee. Failure to successfully complete the course during the first year of
7 probation is a violation of probation.

8 An ethics course taken after the acts that gave rise to the charges in the Accusation,
9 but prior to the effective date of the Decision may, in the sole discretion of the Board or its
10 designee, be accepted towards the fulfillment of this condition if the course would have been
11 approved by the Board or its designee had the course been taken after the effective date of this
12 Decision.

13 Respondent shall submit a certificate of successful completion to the Board or its
14 designee not later than 15 calendar days after successfully completing the course, or not later than
15 15 calendar days after the effective date of the Decision, whichever is later.

16 6. **PSYCHOTHERAPY** Within 60 calendar days of the effective date of this
17 Decision, Respondent shall submit to the Board or its designee for prior approval the name and
18 qualifications of a board certified psychiatrist or a licensed psychologist who has a doctoral
19 degree in psychology and at least five years of postgraduate experience in the diagnosis and
20 treatment of emotional and mental disorders. Upon approval, Respondent shall undergo and
21 continue psychotherapy treatment, including any modifications to the frequency of
22 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

23 The psychotherapist shall consider any information provided by the Board or its designee
24 and any other information the psychotherapist deems relevant and shall furnish a written
25 evaluation report to the Board or its designee. Respondent shall cooperate in providing the
26 psychotherapist any information and documents that the psychotherapist may deem pertinent.

27 Respondent shall have the treating psychotherapist submit quarterly reports to the Board or
28 its designee. The Board or its designee may require Respondent to undergo psychiatric

1 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of
2 probation, Respondent is found to be mentally unfit to resume the practice of medicine without
3 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the
4 period of probation shall be extended until the Board determines that Respondent is mentally fit
5 to resume the practice of medicine without restrictions.

6 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations. Failure to
7 undergo and continue psychotherapy treatment, or comply with any required modification in the
8 frequency of psychotherapy, is a violation of probation.

9 7. **MONITORING - PRACTICE** Within 30 calendar days of the effective date of this
10 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
11 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose
12 licenses are valid and in good standing, and who are preferably American Board of Medical
13 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
14 relationship with Respondent, or other relationship that could reasonably be expected to
15 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
16 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
17 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

18 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
19 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
20 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed
21 settlement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
22 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
23 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
24 signed statement.

25 Within 60 calendar days of the effective date of this Decision, and continuing throughout
26 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall
27 make all records available for immediate inspection and copying on the premises by the monitor
28 at all times during business hours and shall retain the records for the entire term of probation.

1 The monitor(s) shall submit a quarterly written report to the Board or its designee which
2 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
3 are within the standards of practice of medicine or billing, or both, and whether Respondent is
4 practicing medicine safely, billing appropriately, or both. It shall be the sole responsibility of
5 Respondent to ensure that the monitor submits the quarterly written reports to the Board or its
6 designee within 10 calendar days after the end of the preceding quarter.

7 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
8 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
9 name and qualifications of a replacement monitor who will be assuming the responsibility within
10 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60 days
11 of the resignation or unavailability of the monitor, Respondent shall be suspended from the
12 practice of medicine until a replacement monitor is approved and prepared to assume immediate
13 monitoring responsibility. Respondent shall cease the practice of medicine within 3 calendar
14 days after being so notified by the Board or designee.

15 In lieu of a monitor, Respondent may participate in a professional enhancement program
16 equivalent to the one offered by the Physician Assessment and Clinical Education Program at the
17 University of California, San Diego School of Medicine, that includes, at minimum, quarterly
18 chart review, semi-annual practice assessment, and semi-annual review of professional growth
19 and education. Respondent shall participate in the professional enhancement program at
20 Respondent's expense during the term of probation.

21 Failure to maintain all records, or to make all appropriate records available for immediate
22 inspection and copying on the premises, or to comply with this condition as outlined above is a
23 violation of probation.

24 8. **SOLO PRACTICE** Respondent is prohibited from engaging in the solo practice of
25 medicine.

26 9. **NOTIFICATION** Prior to engaging in the practice of medicine, Respondent shall
27 provide a true copy of the Decision and Accusation to the Chief of Staff or the Chief Executive
28 Officer at every hospital where privileges or membership are extended to Respondent, at any

1 other facility where Respondent engages in the practice of medicine, including all physician and
2 locum tenens registries or other similar agencies, and to the Chief Executive Officer at every
3 insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall
4 submit proof of compliance to the Board or its designee within 15 calendar days.

5 This condition shall apply to any change(s) in hospitals, other facilities or insurance
6 carrier.

7 10. **SUPERVISION OF PHYSICIAN ASSISTANTS** During probation, Respondent
8 is prohibited from supervising physician assistants.

9 11. **OBEY ALL LAWS** Respondent shall obey all federal, state and local laws, all rules
10 governing the practice of medicine in California, and remain in full compliance with any court
11 ordered criminal probation, payments and other orders.

12 12. **QUARTERLY DECLARATIONS** Respondent shall submit quarterly declarations
13 under penalty of perjury on forms provided by the Board, stating whether there has been
14 compliance with all the conditions of probation.

15 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
16 of the preceding quarter.

17 13. **PROBATION UNIT COMPLIANCE** Respondent shall comply with the Board's
18 probation unit. Respondent shall, at all times, keep the Board informed of Respondent's business
19 and residence addresses. Changes of such addresses shall be immediately communicated in
20 writing to the Board or its designee. Under no circumstances shall a post office box serve as an
21 address of record, except as allowed by Business and Professions Code section 2021(b).

22 Respondent shall not engage in the practice of medicine in Respondent's place of
23 residence. Respondent shall maintain a current and renewed California physician's and surgeon's
24 license.

25 Respondent shall immediately inform the Board, or its designee, in writing, of travel
26 to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more
27 than 30 calendar days.

28

1 14. **INTERVIEW WITH THE BOARD, OR ITS DESIGNEE** Respondent shall be
2 available in person for interviews either at Respondent's place of business or at the probation unit
3 office, with the Board or its designee, upon request at various intervals, and either with or without
4 prior notice throughout the term of probation.

5 15. **RESIDING OR PRACTICING OUT-OF-STATE** In the event Respondent
6 should leave the State of California to reside or to practice, Respondent shall notify the Board or
7 its designee in writing 30 calendar days prior to the dates of departure and return.

8 Non-practice is defined as any period of time exceeding 30 calendar days in which
9 Respondent is not engaging in any activities defined in Sections 2051 and 2052 of the Business
10 and Professions Code.

11 All time spent in an intensive training program outside the State of California which
12 has been approved by the Board or its designee shall be considered as time spent in the practice of
13 medicine within the State. A Board-ordered suspension of practice shall not be considered as a
14 period of non-practice. Periods of temporary or permanent residence or practice outside
15 California will not apply to the reduction of the probationary term. Periods of temporary or
16 permanent residence or practice outside California will relieve Respondent of the responsibility to
17 comply with the probationary terms and conditions with the exception of this condition and the
18 following terms and conditions of probation: Obey All Laws; and Probation Unit Compliance.

19 Respondent's license shall be automatically canceled if Respondent's periods of
20 temporary or permanent residence or practice outside California total two years. However,
21 Respondent's license shall not be canceled as long as Respondent is residing and practicing
22 medicine in another state of the United States and is on active probation with the medical
23 licensing authority of that state, in which case the two year period shall begin on the date
24 probation is completed or terminated in that state.

25 16. **FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT**

26 In the event Respondent resides in the State of California and for any reason
27 Respondent stops practicing medicine in California, Respondent shall notify the Board or its
28 designee in writing within 30 calendar days prior to the dates of non-practice and return to

1 practice. Any period of non-practice within California, as defined in this condition, will not apply
2 to the reduction of the probationary term and does not relieve Respondent of the responsibility to
3 comply with the terms and conditions of probation. Non-practice is defined as any period of time
4 exceeding 30 calendar days in which Respondent is not engaging in any activities defined in
5 sections 2051 and 2052 of the Business and Professions Code.

6 All time spent in an intensive training program which has been approved by the
7 Board or its designee shall be considered time spent in the practice of medicine. For purposes of
8 this condition, non-practice due to a Board-ordered suspension or in compliance with any other
9 condition of probation, shall not be considered a period of non-practice.

10 Respondent's license shall be automatically canceled if Respondent resides in
11 California and for a total of two years, fails to engage in California in any of the activities
12 described in Business and Professions Code sections 2051 and 2052.

13 17. **COMPLETION OF PROBATION** Respondent shall comply with all financial
14 obligations (e.g., probation monitoring costs) not later than 120 calendar days prior to the
15 completion of probation. Upon successful completion of probation, Respondent's certificate shall
16 be fully restored.

17 18. **VIOLATION OF PROBATION** Failure to fully comply with any term or
18 condition of probation is a violation of probation. If Respondent violates probation in any
19 respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke
20 probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to
21 Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation,
22 the Board shall have continuing jurisdiction until the matter is final, and the period of probation
23 shall be extended until the matter is final.

24 19. **LICENSE SURRENDER** Following the effective date of this Decision, if
25 Respondent ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy
26 the terms and conditions of probation, Respondent may request the voluntary surrender of
27 Respondent's license. The Board reserves the right to evaluate Respondent's request and to
28 exercise its discretion whether or not to grant the request, or to take any other action deemed

appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation and the surrender of Respondent's license shall be deemed disciplinary action. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

20. **PROBATION MONITORING COSTS** Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, but may be adjusted on an annual basis. Such costs shall be payable to the "Medical Board of California," and delivered to the Board or its designee no later than January 31 of each calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of probation.

ACCEPTANCE

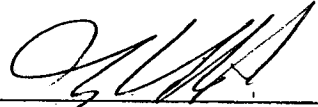
I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Julie Clark Martin, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 5/26/11


JOHN SPENCER ROSE, M.D.
Respondent

I have read and fully discussed with Respondent John Spencer Rose, M.D., the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 6/1/11


JULIE CLARK MARTIN, Esq.
Attorney for Respondent

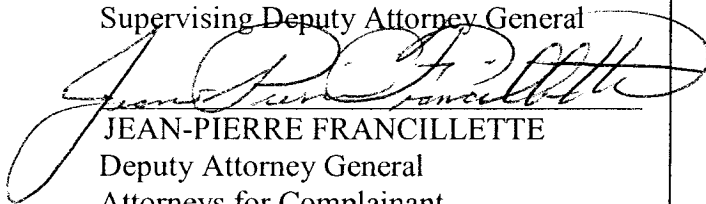
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

DATED: 6/7/2011

KAMALA D. HARRIS, Attorney General
of the State of California

GAIL M. HEPPELL,
Supervising Deputy Attorney General


JEAN-PIERRE FRANCILLETTE
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 02-2010-210612

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO February 23 20 11
BY Arden Bryant ANALYST

1 KAMALA D. HARRIS
2 Attorney General of California
3 GAIL M. HEPPELL
4 Supervising Deputy Attorney General
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8 *Attorneys for Complainant*

9 **BEFORE THE**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
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13 In the Matter of the Accusation Against:

Case No. 02-2010-210612

14 **JOHN SPENCER ROSE, M.D.**
15 UC Davis Medical Center
16 2315 Stockton Boulevard PSSB 2100
17 Sacramento, CA 95817

ACCUSATION

18 Physician's and Surgeon's Certificate No.
19 G75451

Respondent.

20 Complainant alleges:

PARTIES

21 1. Linda K. Whitney (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Director of the Medical Board of California.

23 2. On or about October 27, 1992, the Medical Board of California issued Physician's and
24 Surgeon's Certificate Number G75451 to John Spencer Rose, M.D. (Respondent). Said certificate
25 is renewed and current, with an expiration date of May 31, 2012. On or about November 12,
26 2010, an interim suspension order was issued pursuant to Government Code section 11529
27 suspending Respondent's license.

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1 by the concealment of a material fact. Subdivision (b) provides that no person shall make a false
2 statement in any prescription.

3 **DRUGS**

4 10. Norco is a schedule III controlled substance which contains both Hydrocodone and
5 Acetaminophen. Norco can be prescribed in either 7.5 mg or 10 mg doses. Like all narcotic
6 drugs, Norco may impair mental and/or physical abilities. Psychological dependence, physical
7 dependence, and tolerance may develop upon repeated administration. Accordingly, these drugs
8 should be prescribed with caution.

9 **FIRST CAUSE FOR DISCIPLINE**
10 **(Self-Use of Controlled Substances)**
11 **[Bus. & Prof. Code §§ 2234 and 2239(a)]**

12 11. Respondent is subject to disciplinary action under sections 2234 and 2239(a) of the
13 Code as follows:

14 12. Commencing in approximately 1999, and continuing until the present, Respondent
15 has been using and abusing controlled substances, namely Norco. No lawful prescriptions were
16 issued to Respondent. He would issue prescriptions in the names of fictitious patients and then
17 would pick-up and pay for the prescriptions himself at different pharmacies. During this time
18 Respondent worked in the emergency room at UC Davis Medical Center. The facts and
19 circumstances are as follows:

20 A. On October 25, 2010, a Controlled Substance Utilization Review and
21 Evaluation System (CURES) report for Respondent as a prescriber was run; the time period
22 requested was 10/25/2009 to 10/25/2010. The CURES report shows that George Sydney has
23 been receiving prescriptions by Respondent of Norco; these prescriptions were filled at Rite Aid
24 #6197. Mr. Sydney's DOB is listed as 07/12/1954; his address is listed as 2320 Koho Ave.,
25 Davis. The CURES report also shows that George Bennett has been receiving prescriptions by
26 Respondent of Norco; these prescriptions were filled at CVS Pharmacy #9142. Mr. Bennett's
27 DOB is listed as 07/12/1954; his address is listed as 2320 Coho Ave., Davis. The CURES report
28 also shows that Theresa Smith has been receiving prescriptions by Respondent of Percocet and

1 Norco; these prescriptions were filled at Target Pharmacy #2455. Ms. Smith's DOB is listed as
2 07/12/1954; her address is listed as 2320 Koho Ave., Davis; she had a previous address of 43403
3 Almond Ln., Davis (same residential address as Dr. Rose).

4 B. There is no 2320 Koho Avenue address in Davis, CA (the address listed for
5 George Sydney and Theresa Smith); there is no Koho Avenue in the City of Davis. Further, there
6 is no 2320 Coho Avenue address in Davis, CA (the address listed for George Bennett); there is a
7 Coho Place in the city of Davis but no residence numbered 2320. Respondent gave fictitious
8 addresses.

9 C. On November 1, 2010, a MBC investigator traveled to Rite Aid #6197,
10 2135 Cowell Blvd., Davis to obtain a sample of original prescriptions written in the name of
11 George Sydney by Respondent. The following is a list of this sample:

- 12 (a.) Date 12/21/09
13 Rx #0465175 – Norco 10/325, quantity 80 (three refills)
Rx #0465176 – Decadron 4 mg, quantity 14
- 14 (b.) Date 02/11/10
15 Rx #0471592 – Decadron 4 mg, quantity 14
Rx #0477593 – Norco 10/325, quantity 60 (two refills)
- 16 (c.) Date 04/19/10
17 Rx #0480471 – Decadron 4 mg, quantity 14
Rx #0480472 – Norco 10/325, quantity 80 (three refills)
- 18 (d.) Date 06/16/10
19 (Not filled) – Decadron 4 mg, quantity 20
Rx #0488007 – Norco 10/325, quantity 90 (four refills)
- 20 (e.) Date 10/20/10
21 (Not filled) – Decadron 4 mg, quantity 20
(Not filled) – Phenergan 25 mg, quantity 20
- 22 (f.) Date 10/20/10
23 (Not filled) – Norco 10/325, quantity 80 (two refills)

24 D. Also on November 1, 2010, a MBC investigator traveled to Target
25 #T2455, 4601 2nd Street, Davis to obtain a sample of original prescriptions written in the name
26 of Theresa Smith by Respondent. The following is a list of this sample.
27
28

- 1 (a.) Date 12/17/09
Rx #2200062 – Percocet 5/325, quantity 60
Rx #6601812 – Phenergan 25 mg, quantity 20
- 2
- 3 (b.) Date 02/01/10
Rx #4400289 – Norco 10/325, quantity 100 (one refill)
Rx #6602701 – Decadron 4 mg, quantity 14
- 4
- 5 (c.) Date 03/09/10
Rx #4400404 – Norco 10/325, quantity 80 (two refills)
Rx #66003512 – Decadron 4 mg, quantity 14
- 6
- 7 (d.) Date 05/04/10
Rx #4400616 – Norco 10/325, quantity 60 (two refills)
Rx #6604765 – Phenergan 25 mg, quantity 20
- 8
- 9 (e.) Date 09/17/10
Rx #4401069 – Norco 10/325, quantity 120 (two refills)
Rx #6607675 – Decadron 4 mg, quantity 20
- 10

11 13. On November 5, 2010, a MBC investigator interviewed Respondent at UC Davis
12 Medical Center (UCD MC), Respondent's place of business, located at 2315 Stockton Boulevard
13 PSSB 2100 in Sacramento. Respondent stated that he created fictitious patients, along with false
14 addresses and birthdates. Respondent wrote prescriptions to these fictitious patients (George
15 Sydney, George Bennett, and Theresa Smith), on the prescription pad of his employer, UCD MC.
16 Respondent stated that he obtained this medication for his own use. Respondent stated that in
17 approximately 1999 he began to abuse the drug Norco. He stated that he also prescribed
18 Phenergan and Decadron to the fictitious patients along with the Norco, so there would be a more
19 believable prescribing pattern for a cancer patient.

20 14. During this interview, Respondent provided a urine sample for drug screening
21 analysis and stated that he would test positive for Vicodin; this drug prescribed to him by his
22 primary physician. On November 11, 2010, the MBC investigator received the laboratory report
23 regarding Respondent's urine analysis. The report shows that Respondent tested positive for both
24 Benzodiazepines and Opiates. The Benzodiazepines confirmed were Desmethyldiazepam and
25 Temazepam, which are metabolites for Valium. The Opiates confirmed were Hydrocodone and
26 Hydromorphone, which are metabolites for both Norco and Vicodin.

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1 15. Respondent's conduct as set forth in paragraphs 12 through 14 above constitutes
2 unprofessional conduct in violation of sections 2234 and 2239(a) of the Code.

3 **SECOND CAUSE FOR DISCIPLINE**
4 **(Unlawfully Procuring Controlled Substances)**
5 **[Bus. & Prof. Code §§ 2234 and 2238;**
6 **Health and Safety Code §§ 11170, 11173(a) & (b)]**

6 16. Respondent is subject to disciplinary action under Code sections 2234 and 2238 in
7 conjunction with sections 11170, and 11173(a) and (b), of the Health and Safety Code as follows:

8 17. Complainant re-alleges paragraphs 11 through 15 as if fully set forth herein.

9 18. Respondent's conduct as set forth in paragraphs 11 through 17 above constitutes
10 unprofessional conduct in violation of sections 2234 and 2238 of the Code in conjunction with
11 violations of Health and Safety Code sections 11170, and 11173(a) and (b).

12 **THIRD CAUSE FOR DISCIPLINE**
13 **(Commission of a Dishonest or Corrupt Acts)**
14 **[Bus. & Prof. Code § 2234(e)]**

14 19. Respondent is subject to disciplinary action under Code section 2234(e) as
15 follows:

16 20. Complainant re-alleges paragraphs 11 through 18 as if fully set forth herein.

17 21. Respondent's conduct as set forth in paragraphs 11 through 20 above, and his
18 dishonesty in procuring narcotics, creating fictitious patients in furtherance of procuring
19 narcotics, writing out the false prescriptions on UCD MC scripts, creating fictitious addresses for
20 fictitious patients, and also prescribing Phenergan and Decadron to the fictitious patients along
21 with the Norco at times to make the pattern of prescribing more believable, constitute
22 unprofessional conduct in violation of section 2234(e).

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1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Medical Board of California issue a decision:

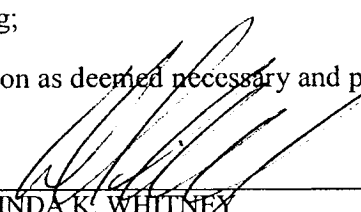
4 1. Revoking or suspending Physician's and Surgeon's Certificate Number G75451,
5 issued to John Spencer Rose, M.D.;

6 2. Revoking, suspending or denying approval of John Spencer Rose, M.D.'s authority to
7 supervise physician assistants, pursuant to section 3527 of the Code;

8 3. Ordering John Spencer Rose, M.D., if placed on probation, to pay the Medical Board
9 of California the costs of probation monitoring;

10 4. Taking such other and further action as deemed necessary and proper.

11
12 DATED: February 23, 2011


13 LINDA K. WHITNEY
14 Executive Director
15 Medical Board of California
16 State of California
17 Complainant

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